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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,362	06/13/2005	Laurent Arghyris	032013-124	6052
21839 7590 08/09/2007 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			EXAMINER NICOLAS, FREDERICK C	
			ART UNIT 3754	PAPER NUMBER
			MAIL DATE 08/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/538,362

Applicant(s)

ARGHYRIS ET AL.

Examiner

Frederick C. Nicolas

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3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) 12 and 13 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-11 and 14 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☒ Claim(s) 1-14 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6/13/2005.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of species A: Figures 1, 2A-2B, claims 1-11,14 in the reply filed on 7/23/2007 is acknowledged. The traversal is on the ground(s) that it would not cause any undue burden for the Examiner to consider all of the species. This is not found persuasive because the five species of claimed invention are clearly not related in terms of their modes of operation. For example, in the elected species of Figures 1, 2a-2b, the claimed invention is directed to a metering pump. On the other hand, the species of Fig. 5 is directed to a metering pump with air vent at the bottom of the bottle. Clearly, there exist unrelated features among the species of claimed invention, which will require a separate search area for each species and thus, impose a burden in search and examination for the Examiner. The requirement is still deemed proper and is therefore made FINAL.

2. Claims 12-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 7/23/2007.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-11,14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

I- Claim1 recites the limitation "the double-valve type" in line 2; "the inlet and the outlet" in line 2. Claim 2, recites "the annular outlet orifice" in line 3. Claim 3, recites "the inside" in line 2. Claim 4, recites "the end" and "the inside" in line 2. Claim 6, recites "the travel of the pusher" in line 2. There are insufficient antecedent basis for these limitations in the noted claims.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4,6-10,14 are rejected under 35 U.S.C. 102(b) as being anticipated by Crosnier et al. 5,271,513.

Crosnier et al. disclose a manually actuated metering pump for a rigid bottle, of the double-valve type (col. 1, ll. 7-12 and in col. 3, ll. 19-25), comprising an intake lower valve (61) and an expulsion upper valve (10) at the inlet and at the outlet, respectively, of a metering chamber (65) that is mounted so as to slide on the lower valve, wherein the lower valve and the upper valve are identical (col. 3, ll. 19-25), wherein the valves are of cylindro-conical shape, comprising a dome pierced at its center, the wall of which, in the closure position, covers the annular outlet orifice as seen in Figures 4 and 6,

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wherein the lower valve is fixed to a hollow tube (28) that communicates with the inside of the bottle, wherein the upper valve is mounted on the end of the outlet nozzle of the pump and constitutes an outermost closure as seen in Figure 6, wherein it includes means (2') for limiting the travel of the pusher, a flexible pouch (2), an air inlet circuit as seen in Figure 6a (note: the air inlet located below element (23)).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crosnier et al. 5,271,513 in view of Sykes 4,723,694.

Crosnier et al. have taught all the features of the claimed invention except that the valves are made of a material having a Shore A hardness of between 40 and 80. Sykes teaches the used of valve that is made of a material having a Shore A hardness of between 40 and 80 (col. 3, ll. 52-68 onto col. 4, ll. 1-44).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize Sykes' teaching onto the valves of Crosnier et al., in order to provide the valves with an elastomeric material that has an inherent hysteresis in the elastomeric material.

Allowable Subject Matter

9. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gueret 5,271,432, Pfeiffer 3,406,909, Gueret 5,617,976, Hazard et al. 5,409,146, Gueret 6,070,763, Crosnier et al. 5,339,972 disclose other types of manually actuated pump.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver, can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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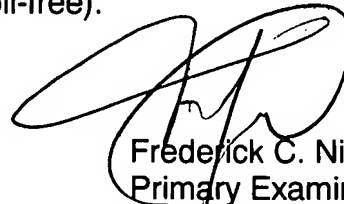
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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN

August 5, 2007

 8/5/07
Frederick C. Nicolas
Primary Examiner
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